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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/552,105	04/19/2000	Peter H. Schmidt	1331-US	3061
24313	7590	11/30/2004	EXAMINER	
TERADYNE, INC 321 HARRISON AVE BOSTON, MA 02118			NGUYEN, PHUOCH	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/552,105	Applicant(s) SCHMIDT ET AL.	
	Examiner Phuoc H. Nguyen	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 22, and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the amendment filed on July 6, 2004. Previous office action contained claims 1-20. Applicant amended claims 1-3,10,11 and 17, and added claims 22 and 23. Amendment filed on July 6, 2004 have been entered and made of record. Therefore, pending claims 1-20,22, and 23 are presented for further consideration and examination.

Response to Arguments

2. Applicant's arguments filed July 6, 2004 have been fully considered but they are not persuasive.

3. Referring to claim 1, applicants argued on page 7 that Caswell's reference does not teach or suggest *neither the diagnostic terminals nor diagnostic servers are understood to provide a diagnostic website through which the diagnostic unit receives a communication from a subscriber experiencing a problem with the network, and determining with a diagnostic unit configuration information of said subscriber terminal from portions of said communication generated by the subscriber terminal.* And referring to claims 17 and 19, applicants further argued on page 8 that Caswell's reference does not teach or suggest *sending indication of the data received from the subscriber to the selected network element in the protocol consistent with the network element protocol.* This is not found persuasive. Caswell's invention disclose *the diagnostic terminals provide a diagnostic website through which the diagnostic unit*

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receives a communication from a subscriber experiencing a problem with the network (Figures 10 and 11; and col. 8, lines 33 through col. 9, 1st paragraph). Caswell's figure 2 further disclose *determining with a diagnostic unit configuration information of said subscriber terminal from portions of said communication generated by the subscriber terminal* (Figures 2, and 3; and col. 8, lines 33-37). For further explain, Caswell's figure 2 disclose a subscriber terminal 105 used a web browser to connect to the ISS 101 (col. 4, lines 53-57), and when the ISS 101 is not functioning properly or malfunctioning (col. 6, lines 63-66), the subscriber terminal 105 is then report the problem experiencing along with the information about the subscriber terminal 105 to the diagnostic terminal 106 (col. 8, lines 33-37), and due to the data communication between the subscriber's terminal 105, the Internet/Intranet Service System (ISS) 101, and the diagnostic terminal 106 through a bidirectional open standard communication protocol (e.g. HyperText Transport Protocol (HTTP) is used for web accesses.); therefore, the subscriber terminal 105 has to use the web based to report the problem to the diagnostic terminal 106. Caswell's figure further disclose *sending indication of the data received from the subscriber to the selected network element* (e.g. diagnostic server) *in the protocol consistent with the network element protocol* (e.g. HTTP) (Figure 2,3,10, and 11; and col. 8, lines 33 through col. 9, 1st paragraph). For further explain, Caswell's invention further disclose after the diagnostic terminal 106 received the problem report from the subscriber terminal 105, it will then send the request to the diagnostic server through the HTTP to invoke in the tests and correlates the test result and send the result back to the diagnostic terminal 106 for display.

4. Claims 2-16,18,20,22, and 23 are rejected at least by virtual of their dependency on independent and by other reasons set forth in the previous office action.

5. According, rejections for claims 1-20,22, and 23 are presented as below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 1,4,5,7-12,15,16, and 23 rejected under 35 U.S.C. 102(e) as being anticipated by Caswell et al. U.S. Patent 5,964,891.
3. Referring to claim 1, Caswell reference disclose providing a diagnostic unit (e.g. Figure 2, Diagnostic Terminal 106 or Diagnostic servers 120, and 130-132) with a diagnostic website (col. 8, lines 20-21; and lines 33-35); receiving, through the diagnostic website with the diagnostic unit, a communication from a subscriber experiencing a problem with a network (col. 8, lines 35-37); determining with said diagnostic unit configuration information of said subscriber terminal from portions of said communication generated by the subscriber terminal (col. 8, lines 35-39); and communicating, with said diagnostic unit, with a selected network element (eg. Service systems 101-103) (col. 8, lines 39-40).
4. Referring to claim 4, Caswell reference disclose the network comprises the internet and an access network managed by an internet service provider, and the diagnostic unit is installed within the access network and the network element is connected to the diagnostic unit through the internet (Figure 2).

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5. Referring to claim 5, Caswell reference disclose information electronically to a support operator (col. 4, lines 27-45; and col. 6, last paragraph through col. 7, 1st paragraph).

6. Referring to claims 7,8, and 9, Caswell reference disclose obtaining an identification of said subscriber includes determining username of said subscriber (Figure 10).

7. Referring to claims 10, Caswell reference disclose determining includes the step of emulating with said diagnostic unit at least one of login services to said subscriber and authentication services to said subscriber (Figure 2; and col. 5, lines 49-62).

8. Referring to claim 11, Caswell reference disclose the format of data sent by said subscriber (Figure 8).

9. Referring to claim 12, Caswell reference disclose the communication between the subscriber and diagnostic unit; Caswell does not explicitly teach that authenticating a password supplied by said subscriber for an Internet Service Provider (ISP) Net; however, it is an inherent feature to authenticate before communicate.

10. Referring to claims 15, and 16, Caswell reference disclose identifying and prioritizing said subscriber by said identification information within a trouble ticketing system of said service provider (Figures 10-12; and col. 11, last paragraph).

11. Referring to claim 23, Caswell reference disclose emulating with said diagnostic unit the Internet to said subscriber (e.g. diagnostic unit 106 display the result on the web page for the subscriber to view) (col. 8, lines 40-43).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 2,3,6,12, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell et al. U.S. Patent 5,964,891 in view of Schwaller et al. U.S. Patent 5,881,237.

Referring to claims 2,3, and 6, Caswell reference disclose a subscriber is experiencing a problem (e.g. When the subscriber is misconfigured) with a network or for communication over the network to the selected network element and report it to the diagnostic terminal through a web browser for diagnosis purposes; however, Caswell fail to teach the communication between the subscriber and diagnostic terminal is utilizing fault tolerant stack.

Schwaller reference disclose console engine includes at least one network protocol stack to talk an endpoint nodes.

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Schwaller's teaching into Caswell's method to utilize the protocol stack to communicate between devices (e.g. Diagnostic and subscriber), as a result, it will provide the ability to support multiple protocols and provide greater flexibility to communicate between devices.

14. Referring to claims 17-20, Caswell reference disclose providing a diagnostic unit in communication with a network (figure 2); receiving, with said diagnostic unit, a communication

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from a subscriber unable to communicate with a desired network element (col. 8, lines 33-47); and allowing communications between said subscriber and said diagnostic unit by accepting data from said subscriber and with a network element protocol of a selected network element, and establishing a communication link with the subscriber and sending an indication of the data received from the subscriber to the selected network element in a protocol consistent (e.g. HTTP) with the network element protocol (col. 8, lines 33-47, eg. Subscriber is experiencing a problem with the network; therefore, it generates a request to the diagnostic terminal which includes information about the subscriber. The diagnostic terminal then forward the request to the diagnostic server through an open standard communication protocol, which is HyperText Transport Protocol (HTTP)); however, Caswell fail to teach the protocol which is use between the communication between the subscriber and diagnostic terminal is utilizing a source protocol inconsistent (Fault Tolerant Protocol stack) which is different from the diagnostic terminal communicate with the network element.

Schwaller reference disclose console engine includes at least one network protocol stack (protocol inconsistent) talk an endpoint nodes (col. 27, lines 44-60).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Schwaller's teaching into Caswell's method to utilize the protocol stack (e.g. Protocol inconsistent) to communicate between devices (e.g. Diagnostic and subscriber), as a result, it will provide the ability to support multiple protocols and provide greater flexibility to communicate between devices.

15. Claims 13 14, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caswell et al. U.S. Patent 5,964,891 in view of Stephanou et al. U.S. Patent 6,513,013.

Caswell reference disclose a subscriber is experiencing a problem with a network and report it to the diagnostic terminal through a web browser for diagnosis purposes; however, Caswell fail to teach authenticating a password supplied by said subscriber for an Internet Service Provider (ISP) Net, and sending an e-mail to a diagnostic unit from said subscriber and receiving an e-mail from said diagnostic unit by said subscriber.

Stephanou reference discloses an e-mail to a diagnostic unit from said subscriber and receiving an e-mail from said diagnostic unit by said subscriber (col. 3, lines 34-40; and col. 4, lines 15-21).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was made to incorporate Stephanou's teaching into Caswell's method to use email to communicate between subscriber and diagnostic unit, so to allow email response to the problem being posed and also allowing back and forth communication over network with will facilitate solving the customer's problem in an effective and efficient manner.

Conclusion

16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

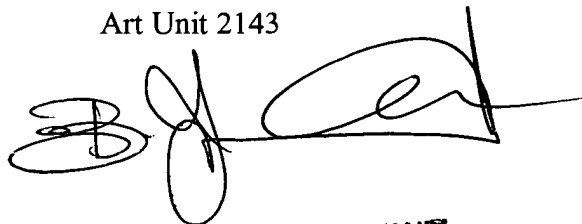
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 571-272-3919. The examiner can normally be reached on Mon -Thu (7AM-4: 30PM) and off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 15, 2004

Phuoc H. Nguyen
Examiner
Art Unit 2143

A handwritten signature in black ink, appearing to read 'Bunjob Jaroenchonwanit', written over a horizontal line.

**BUNJOB JAROENCHONWANIT
PRIMARY EXAMINER**